

34	54	40
Sec.	Twp.	Range

**ZONING HEARING APPLICATION
MIAMI-DADE COUNTY
DEPARTMENT OF PLANNING & ZONING**

204-366
RECEIVED
204-329
AUG 12 2004
ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.
BY [Signature]

LIST ALL FOLIO #S: 30-4034-000-0521

Date Received

1. **NAME OF APPLICANT** (Provide complete name of applicant, exactly as recorded on deed, if applicable. If applicant is a lessee, an executed 'Owner's Sworn-to-Consent' and copy of a valid lease for 1 year or more is required. If the applicant is a corporation, trust, partnership, or like entity, a 'Disclosure of Interest' is required).

Dadeland Breezes Apartments, LLC, a limited liability company

2. **APPLICANT'S MAILING ADDRESS, TELEPHONE NUMBER:**

Mailing Address: c/o Juan J. Mayol, Jr., Esq., Akerman Senterfitt, One SE Third Avenue, Suite 2800

City: Miami State: FL Zip: 33131 Phone#: (305) 374-5600

3. **OWNER'S NAME, MAILING ADDRESS, TELEPHONE NUMBER:**

Owner's Name (Provide name of ALL owners): Mailing Address: c/o Juan J. Mayol, Jr., Esq., Akerman Senterfitt, P.A., One SE Third Avenue, Suite 2800

City: Miami State: FL Zip: 33131 Phone#: (305) 374-5600

4. **CONTACT PERSON'S INFORMATION:**

Name: Juan J. Mayol, Jr., Esq. Company: Akerman Senterfitt, P.A.

Mailing Address: One SE Third Avenue, Suite 2800

City: Miami State: FL Zip: 33131

Phone#: (305) 374-5600 Fax#: (305) 374-5095 E-mail: jmayol@akerman.com

5. **LEGAL DESCRIPTION OF ALL PROPERTY COVERED BY THE APPLICATION**

(Provide complete legal description, i.e., lot, block, subdivision name, plat book & page number, or metes and bounds. Include section, township, range. If the application contains multiple rezoning requests, then a legal description for each sub-area must be provided. Attach separate sheets as needed. In addition to paper version it is requested that lengthy metes and bounds description be provided on disquette or compact disc in Microsoft Word or compatible software.)

See attached Exhibit "A"

6. ADDRESS OR LOCATION OF PROPERTY (For location, use description such as NE corner of, etc.)

7701 N. Kendall Drive, Miami, FL 33156

7. SIZE OF PROPERTY _____' x _____' (in acres): 11.11±
(divide total sq. ft. by 43,560 to obtain acreage)

8. DATE property ☒ acquired ☐ leased: 9/03 9. Lease term: _____ years
(month & year)

10. IF CONTIGUOUS PROPERTY IS OWNED BY THE SUBJECT PROPERTY OWNER(S),
provide complete legal description of said contiguous property. (See notes related to item 5.)

None

11. Is there an option to purchase ☐ or lease ☐ the subject property or property contiguous thereto?
☒ no ☐ yes (If yes, identify potential purchaser or lessee and complete 'Disclosure of Interest' form)

12. PRESENT ZONING CLASSIFICATION: RU-4M

13. APPLICATION REQUESTS (Check all that apply and describe nature of the request in space provided)

☒ District Boundary Changes (DBC) [Zone class requested]: PAD

☐ Unusual Use: _____

☐ Use Variance: _____

☐ Non-use Variance: _____

☐ Alternative Site Development: _____

☐ Special Exception: _____

☐ Modification of previous resolution/plan: _____

☐ Modification of Declaration or Covenant: _____

☐ _____

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14. Has a public hearing been held on this property within the last year & a half? ☒ no ☐ yes.
If yes, provide applicant's name, date, purpose and result of hearing, and resolution number:

15. Is this application as a result of a violation notice? ☒ no ☐ yes. If yes, give name to whom the
violation notice was served: _____ and describe the violation:

16. Describe structures on the property: Apartment Buildings

17. Is there any existing use on the property? ☐ no ☒ yes. If yes, what use and when established?

Use: Multi-family Year: _____

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APPLICANT'S AFFIDAVIT
(SELECT APPROPRIATE AFFIDAVIT AND NOTARIZE BELOW)

ZONING HEARINGS SECTION
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The Undersigned, first being duly sworn depose that all answers to the questions in this application, and all supplementary documents made a part of the application are honest and true to the best of (my)(our) knowledge and belief. (I)(We) understand this application must be complete and accurate before the application can be submitted and the hearing advertised.

OWNER OR TENANT AFFIDAVIT

(I)(WE), _____, being first duly sworn, depose and say that (I am)(we are) the ☐ owner ☐ tenant of the property described and which is the subject matter of the proposed hearing.

Signature (see notary below) Signature

CORPORATION AFFIDAVIT

(I)(WE), Dadeland Breezes Apartments LLC, being first duly sworn, depose and say that (I am)(we are) the ☐ President ☐ Vice-President ☐ Secretary ☐ Asst. Secretary of the aforesaid corporation, and as such, have been authorized by the corporation to file this application for public hearing; and that said corporation is the ☐ owner ☐ tenant of the property described herein and which is the subject matter of the proposed hearing.

Attest: _____

[Signature]
Authorized Signature

(Corp. Seal)

Office Held

PARTNERSHIP AFFIDAVIT

(I)(WE), _____, being first duly sworn, depose and say that (I am)(we are) partners of the hereinafter named partnership, and as such, have been authorized to file this application for a public hearing; and that said partnership is the ☒ owner ☐ tenant of the property described herein which is the subject matter of the proposed hearing.

(Name of Partnership)

By _____ %

By _____ %

By _____ %

By _____ %

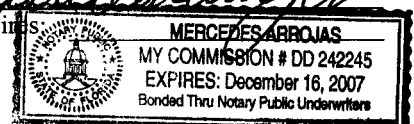
ATTORNEY AFFIDAVIT

I, Juan J. Mayol, Jr., being first duly sworn, depose and say that I am a State of Florida Attorney at Law, and I am the Attorney for the Owner of the property described and which is the subject matter of the proposed hearing.

[Signature]
Signature

Sworn to and subscribed to be me
this 18 day of August, 2004

Notary Public:
Commission expires



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RESPONSIBILITIES OF THE APPLICANT

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

I AM AWARE THAT:

BY _____

1. The Public Works Department, the Department of Environmental Resources Management (DERM), and other County agencies review and critique zoning hearing applications which may affect the scheduling and outcome of my hearing. These reviews may require additional hearings before DERM's Environmental Quality Control Board (EQCB), or other County boards, and/or the proffering of agreements to be recorded. I am also aware that I must comply promptly with any DERM or Public Works conditions and advise this office in writing if my application will be withdrawn.
2. Filing fees may not be the total cost of a hearing. Some requests require notices to be mailed to property owners up to a mile from the subject property. In addition to mailing costs, fees related to application changes, plan revisions, deferrals, re-advertising, etc., may be incurred. Applications withdrawn within 60 days of the filing are eligible for a refund of 50% of the hearing fee but after that time hearings withdrawn or returned will be ineligible for a refund. I understand that fees must be paid promptly.
3. I am responsible for obtaining any required permits and inspections for all structures and additions proposed, or built without permits. And that a Certificate of Use (C.U.) must be obtained for the use of the property after it has been approved at Zoning Hearing. Failure to obtain the required permits and/or C.U., Certificates of Completion (C.C.) or Certificate of Occupancy (C.O.) will result in enforcement action against any occupant and owner. Submittal of the Zoning Hearing application may not forestall enforcement action against the property.
4. The 3rd District Court of Appeal has ruled that zoning applications inconsistent with the Comprehensive Development Master Plan (CDMP) cannot be approved by a zoning board based upon considerations of fundamental fairness. Therefore, I acknowledge that if the hearing request is inconsistent with the CDMP and I decide to go forward then my hearing request can only be denied or deferred, but not approved.
5. In Miami-Dade County v. Omnipoint Holdings, Inc., Case No. 3D01-2347 (Fla. 3rd DCA 2002), the 3rd District Court of Appeal has held invalid the standards for non-use variances, special exceptions, unusual uses, new uses requiring a public hearing and modification of conditions and covenants. The County Attorney's Office is seeking review of the decision in the Florida Supreme Court, as well as a stay of the decision's effect. While the case is pending, the decision is in effect and binding on all parties. Its impact is to suspend consideration of zoning applications for most special exceptions, unusual uses, non-use variances, and modification of conditions and covenants. In the interim, County staff have developed and proposed to the Board of County Commissioners certain ordinances that would provide interim standards for limited categories of applications. If these standards are enacted, certain applications may be able to proceed to hearing. However, absent a reversal by the courts or enactment of revised regulations, pending applications will not be able to proceed to hearing until the disposition of the pending litigation.
6. Any covenant to be proffered must be submitted to the Department's Legal Advisor, on County form, at least 1 month prior to the hearing date. The covenant will be reviewed and the applicant will be notified if changes or corrections are necessary. Once the covenant is acceptable, the applicant is responsible to submit the executed covenant with a current 'Opinion of Title' within 1 week of the hearing. Legal Advisor can advise as to additional requirements applicable to foreign corporations. Documents submitted to Legal Advisor must carry a cover letter indicating subject matter, application number and hearing date. Legal Advisor may be reached at (305) 375-3075.

DAELAND BREEZES APARTMENTS, LLC

By: _____

(Applicant's Signature)

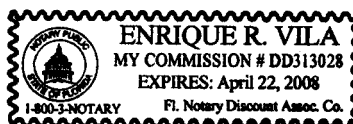
(Print Name)

Sworn to and subscribed before me this 18 day of August, 2004. Affiant is personally known to me or has produced _____ as identification.

(Notary Public)

My commission expires _____

{M2129907;1}



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OWNERSHIP AFFIDAVIT
FOR
CORPORATION

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

BY _____

STATE OF FLORIDA

Public Hearing No. _____

COUNTY OF MIAMI-DADE

Before me, the undersigned authority, personally appeared _____,
_____, hereinafter the Affiant(s), who being duly sworn by me,
on oath, deposes and says:

1. Affiant is the president, vice-president or CEO of the Dadeland Breezes Apartments, LLC, a limited liability company, with the following address: 4535 Ponce de Leon Blvd., Coral Gables, FL 33146
2. The Corporation owns the property, which is the subject of the proposed hearing.
3. The subject property is legally described as:
See attached Exhibit "A"
4. Affiant is legally authorized to file this application for public hearing.
5. Affiant understands this affidavit is subject to the penalties of law for perjury and the possibility of voiding of any zoning granted at public hearing.

Dadeland Breezes Apartments, LLC

Witnesses:

Signature

Print Name

Signature

Print Name

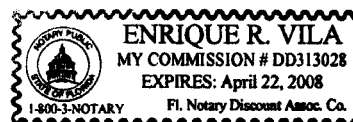
Affiant's signature

Print Name

Sworn to and subscribed before me on the 18 day of August, 2004. Affiant is personally known to
me or has produced _____ as identification.

Notary Public-State of _____

My Commission Expires: _____



DISCLOSURE OF INTEREST*

If a **CORPORATION** owns or leases the subject property, list principal, stockholders and percent of stock owned by each. [Note: Where principal officers or stockholders consist of other corporation(s), trust(s), partnership(s) or similar entities, further disclosure shall be made to identify the natural persons having the ultimate ownership interest].

CORPORATION NAME: Dadeland Breezes Apartments, LLC., a limited liability company

NAME AND ADDRESS	Percentage of Stock
<u>4535 Ponce de Leon Blvd</u>	<u></u>
<u>Coral Gables, FL 33146</u>	<u></u>
<u></u>	<u></u>
<u>See attached Exhibit "B"</u>	<u></u>
<u></u>	<u></u>
<u></u>	<u></u>

If a **TRUST** or **ESTATE** owns or leases the subject property, list the trust beneficiaries and percent of interest held by each. [Note: Where beneficiaries are other than natural persons, further disclosure shall be made to identify the natural persons having the ultimate ownership interest].

TRUST/ESTATE NAME:

NAME AND ADDRESS	Percentage of Interest
<u></u>	<u></u>
<u></u>	<u></u>
<u></u>	<u></u>
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If a **PARTNERSHIP** owns or leases the subject property, list the principals including general and limited partners. [Note: Where partner(s) consist of other partnership(s), corporation(s), trust(s) or similar entities, further disclosure shall be made to identify the natural persons having the ultimate ownership interests].

PARTNERSHIP OR LIMITED PARTNERSHIP NAME:

NAME AND ADDRESS	Percentage of Ownership
<u></u>	<u></u>
<u></u>	<u></u>
<u></u>	<u></u>
<u></u>	<u></u>
<u></u>	<u></u>
<u></u>	<u></u>

If there is a **CONTRACT FOR PURCHASE** by a Corporation, Trust or Partnership, list purchasers below including principal officers, stockholders, beneficiaries or partners. [Note: Where principal officers, stockholders, beneficiaries or partners consist of other corporations, trusts, partnerships or similar entities, further disclosure shall be made to identify natural persons having ultimate ownership interests].

NAME OF PURCHASER: _____

NAME AND ADDRESS (if applicable) _____

Percentage of Interest _____

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Date of contract: _____

BY _____

If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership or trust:

NOTICE: For changes of ownership or changes in purchase contracts after the date of the application, but prior to the date of final public hearing, a supplemental disclosure of interest is required.

The above is a full disclosure of all parties of interest in this application to the best of my knowledge and belief.

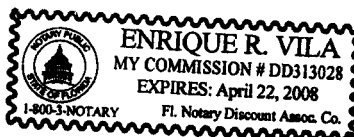
Dadeland Breezes Apartments, LLC

Signature: By: _____

(Applicant)

Sworn to and subscribed before me this 18 day of August, 2004. Affiant is personally known to me or has produced _____ as identification.

(Notary Public)



My commission expires _____

*Disclosure shall not be required of: 1) any entity, the equity interests in which are regularly traded on an established securities market in the United States or another country; or 2) pension funds or pension trusts of more than five thousand (5,000) ownership interests; or 3) any entity where ownership interests are held in a partnership, corporation or trust consisting of more than five thousand (5,000) separate interests, including all interests at every level of ownership and where no one (1) person or entity holds more than a total of five per cent (5%) of the ownership interest in the partnership, corporation or trust. Entities whose ownership interests are held in a partnership, corporation, or trust consisting of more than five thousand (5,000) separate interests, including all interests at every level of ownership, shall only be required to disclose those ownership interest which exceed five (5) percent of the ownership interest in the partnership, corporation or trust.

EXHIBIT "A".

LEGAL DESCRIPTION:

A PORTION OF THE S.E. $\frac{1}{4}$ OF THE S.E. $\frac{1}{4}$ OF THE S.E. $\frac{1}{4}$ AND A PORTION OF THE S.W. $\frac{1}{4}$ OF THE S.E. $\frac{1}{4}$ OF THE S.E. $\frac{1}{4}$ ALL IN SECTION 34, TOWNSHIP 54 SOUTH, RANGE 40 EAST, DADE COUNTY, FLORIDA, BEING PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTHWEST CORNER OF THE S.W. $\frac{1}{4}$ OF THE S.E. $\frac{1}{4}$ OF THE S.E. $\frac{1}{4}$ OF SAID SECTION 34, THENCE RUN NORTH 87°54'27" EAST ALONG THE SOUTH BOUNDARY OF SAID SECTION 34 A DISTANCE OF 432.11 FEET TO A POINT, SAID POINT BEING 898.41 FEET WEST OF THE SOUTHEAST CORNER OF SAID SECTION 34 AND BEING ON A LINE THAT IS 20 FEET EAST OF AND PARALLEL TO THE EAST FACE OF A 1 STORY C.B.S. BUILDING; THENCE RUN NORTH 02°04'38" WEST ALONG A LINE THAT IS 20 FEET EAST OF AND PARALLEL TO THE EAST FACE OF A 1 STORY C.B.S. WAREHOUSE BUILDING A DISTANCE OF 55.0 FEET TO THE POINT OF INTERSECTION WITH THE NORTH RIGHT OF WAY BOUNDARY OF STATE ROAD 94 (NORTH KENDALL DRIVE) AS SHOWN ON RIGHT OF WAY MAP RECORDED IN PLAT BOOK 78 AT PAGE 35 OF THE PUBLIC RECORDS OF DADE COUNTY FLORIDA SAID POINT BEING THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREINAFTER TO BE DESCRIBED; THENCE CONTINUE ON THE LAST DESCRIBED COURSE A DISTANCE 597.97 FEET TO THE POINT OF INTERSECTION WITH THE NORTH BOUNDARY OF SAID S.W. $\frac{1}{4}$ OF THE S.E. $\frac{1}{4}$ OF THE S.E. $\frac{1}{4}$ OF SECTION 34 SAID POINT BEING 433.52 FEET EAST OF THE NORTHWEST CORNER OF SAID S.W. $\frac{1}{4}$ OF THE S.E. $\frac{1}{4}$ OF THE S.E. $\frac{1}{4}$ OF SECTION 34; THENCE RUN NORTH 87°50'41" EAST ALONG THE NORTH BOUNDARY OF THE SOUTH $\frac{1}{2}$ OF THE S.E. $\frac{1}{4}$ OF THE S.E. $\frac{1}{4}$ OF SAID SECTION 34 A DISTANCE OF 873.38 FEET TO A POINT OF INTERSECTION WITH THE WEST RIGHT OF WAY BOUNDARY OF STATE ROAD No. 826 (PALMETTO BY-PASS) AS SHOWN ON RIGHT OF WAY MAP RECORDED IN PLAT BOOK 70 AT PAGE 6 OF THE PUBLIC RECORDS IN DADE COUNTY FLORIDA; SAID POINT BEING ON A LINE THAT IS 25 FEET WEST OF AND PARALLEL TO THE EAST BOUNDARY OF SECTION 34; THENCE RUN S.2°04'46"E. ALONG SAID WEST RIGHT-OF-WAY BOUNDARY AND ALONG A LINE THAT IS 25.0 FEET WEST OF AND PARALLEL TO THE EAST BOUNDARY OF SAID SECTION 34 A DISTANCE OF 233.24 FEET TO A POINT; THENCE RUN S.5°48'45"W. ALONG SAID WEST RIGHT-OF-WAY BOUNDARY A DISTANCE OF 364.14 FEET TO A POINT, SAID POINT BEING ON A LINE THAT IS 75 FEET WEST OF AND PARALLEL TO THE EAST BOUNDARY OF SAID SECTION 34 AND BEING ALSO ON A LINE THAT IS 60 FEET NORTH OF AND PARALLEL TO THE SOUTH BOUNDARY OF SAID SECTION 34; THENCE RUN S.87°54'27"W. ALONG A LINE THAT IS 60 FEET NORTH OF AND PARALLEL TO THE SOUTH BOUNDARY OF SAID SECTION 34 AND ALONG THE NORTH RIGHT OF WAY LINE OF SAID STATE ROAD 826, A DISTANCE OF 632.73 FEET TO A POINT; THENCE RUN S.2°04'43"E. ALONG THE WEST RIGHT-OF-WAY BOUNDARY OF SAID STATE ROAD 826, A DISTANCE OF 5.0 FEET TO A POINT OF INTERSECTION WITH THE NORTH RIGHT-OF-WAY BOUNDARY OF SAID STATE ROAD No. 94; THENCE RUN S.87°54'27"W. ALONG THE NORTH RIGHT OF WAY BOUNDARY OF SAID STATE ROAD No. 94 A DISTANCE OF 190.67 FEET TO THE POINT OF BEGINNING, CONTAINING 510,246 SQUARE FEET, MORE OR LESS, OR 11.71 ACRES, MORE OR LESS.

LESS THE NORTH 30.00 FEET THEREOF FOR ROAD PURPOSE AS RECORDED IN O.R. BOOK 4704 AT PAGE 337 OF THE PUBLIC RECORD OF MIAMI-DADE COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE N.E. CORNER OF SOUTH $\frac{1}{2}$ OF THE S.E. $\frac{1}{4}$ OF THE S.E. $\frac{1}{4}$ OF SECTION 34, TOWNSHIP 54 SOUTH RANGE 40 EAST, DADE COUNTY FLORIDA; THENCE RUN S.87°50'41" W. ALONG THE NORTH LINE OF THE SOUTH $\frac{1}{2}$ OF THE S.E. $\frac{1}{4}$ OF THE S.E. $\frac{1}{4}$ OF SAID SECTION 34 FOR 25.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S. 87°50'41" W. ALONG THE NORTH LINE OF THE SOUTH $\frac{1}{2}$ OF THE S.E. $\frac{1}{4}$ OF THE S.E. $\frac{1}{4}$ OF SAID SECTION 34 FOR 873.38 FEET; THENCE RUN S.2°04'38"E. FOR 30.00 FEET TO A POINT ON A LINE THAT IS 30.00 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF THE SOUTH $\frac{1}{2}$ OF THE S.E. $\frac{1}{4}$ OF THE S.E. $\frac{1}{4}$ OF SAID SECTION 34; THENCE RUN N.87°50'41" E. ALONG THE LINE THAT IS 30.00 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF THE SOUTH $\frac{1}{2}$ OF THE S.E. $\frac{1}{4}$ OF THE S.E. $\frac{1}{4}$ OF SAID SECTION 34 FOR 848.35 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE TO THE SOUTHWEST WITH A RADIUS OF 25 FEET; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE FOR 39.30 FEET TO THE POINT OF TANGENCY ON THE WEST LINE OF THE EAST 25.00 FEET OF THE S.E. $\frac{1}{4}$ OF SAID SECTION 34; THENCE RUN N.2°04'48" W. ALONG THE WEST LINE OF THE EAST 25.00 FEET OF THE S.E. $\frac{1}{4}$ OF SAID SECTION 34 FOR 55.03 FEET TO THE POINT OF BEGINNING.

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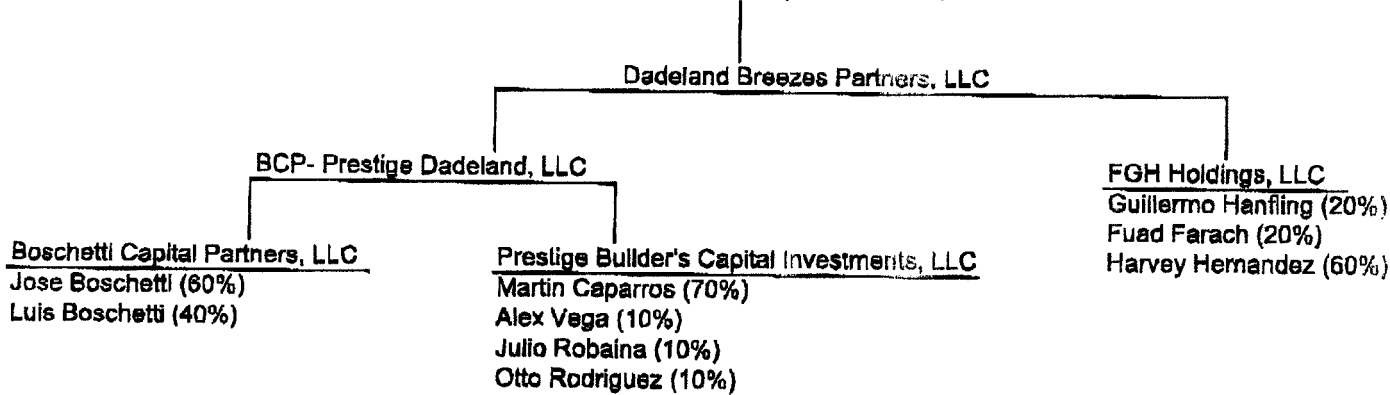
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BY

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- EXHIBIT " B -

Dadeland Breezes Apartments, LLC



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